

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

ERIC THOMAS GILBERT

Plaintiff

VS.

ATS SPECIALIZED, INC. et al

Defendant

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CIVIL ACTION NO. _____

PLAINTIFF'S FIRST ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT

1. NOW COMES, Eric Thomas Gilbert (also referred to as Plaintiff), an individual who resides in Tennessee at Whiteville.

2. Defendant, ATS Specialized, Inc. (hereinafter referred to as "ATS") is a Minnesota corporation that owned the 18-wheeler in question; this corporation can be served by serving its registered agent, Bob Bednarek at 401 Blaine St., Gary, IN 46406 and Defendant Caple Charles Michael (hereinafter referred to as "Michael"), the driver of the 18-wheeler, resides at 6325 Garden Oaks Dr., Shreveport, Louisiana where he may be served.

I. JURISDICTION

3. This Court has jurisdiction over this lawsuit under 28 U.S.C. §1332, because Plaintiff and Defendants reside in different states.

II. VENUE

4. Venue is proper in this Court since the cause of action arose in Callahan County, Texas which is in this district.

III. FACTS

5. This lawsuit results from a collision that occurred on December 6, 2013 on IH20 near the intersection of FM 2047 in Callahan County, Texas. The 2007 Chevrolet Silverado C1500 pickup in which Plaintiff was riding as a passenger was traveling east on IH20 traveling in the inside lane. Defendant Michael was also traveling eastbound at the same time and place on IH20 driving a 2012 Kenworth 18-wheeler truck traveling in the outside lane when he suddenly and without adequate warning changed lanes with the 18-wheeler into the inside lane directly into the path of the Chevrolet pickup; the Chevrolet pickup was then unable to avoid colliding with the 18-wheeler because of snow and/or ice that had accumulated on the surface of IH20 in that area. The two vehicles crashed violently injuring the Plaintiff.

6. As a result of the impact between the Chevrolet pickup and Defendant Michael's 18-wheeler, Plaintiff suffered serious and lasting personal injuries to his back, left leg, neck and ribs.

IV. NEGLIGENCE

7. At the time of the collision, Defendant driver Michael was operating the 18-wheeler truck in a negligent manner. Defendant driver Michael had a duty to exercise ordinary care and operate his vehicle reasonably and prudently. Defendant Michael breached that duty in one or more of the following ways:

- a. He changed lanes when it was unsafe to do so under the circumstances;
- b. He changed lanes when there was insufficient clearance from the Chevrolet pickup to do so under the circumstances; and
- c. He failed to keep a proper lookout under the circumstances.

V. DAMAGES

8. As a direct and proximate result of Defendant driver Michael's negligence, Plaintiff suffered injuries and damages including:

- a. Physical pain and mental anguish in the past and future;

- b. Loss of earning capacity;
- c. Physical impairment in the past and future; and
- d. Medical expense in the past and future.

VI. CAUSE OF EMPLOYMENT

9. At the time and place of the injury in question Defendant driver Michael was in the course and scope of his employment with Defendant ATS.

PRAYER

For these reasons Plaintiff asks for judgment against Defendants jointly and severally for the following:

- a. Actual damages in an amount in excess of \$70,000 and within the jurisdictional limits of this Court which amount will include medical expenses in the amount due and owing of over \$6,000 and still accumulating and anticipated medical expenses of \$50,000;
- b. Prejudgment and postjudgment;
- c. Costs of suit; and
- d. All other relief the Court deems appropriate.

Respectfully submitted,



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